

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF MADERA.

UNION COLONIZATION COMPANY,
(a corporation), Luther J.
Holton and J. W. Goodwin, Robert E. Easton,
as executors of E. W. Howard, deceased,
and R. E. Easton (substituted as plaintiffs
in the place and stead of California Pastoral
& Agricultural Company (a corporation),
and,
MILLER & LUX INCORPORATED, (a corporation),
substituted as plaintiff in the place and
stead of Miller & Lux (a corporation),
Henry Miller and Thomas B. Bishop and
Azro N. Lewis, as trustees under the will
of Miranda W. Lux, deceased, Magdalena
Holtzscherer, Henry Lux, Dorothea Rott,
Henry Roehrig, Jr., Salome Lux Wolfe,
Caroline Lux Michel, George Lux, Emil Lux,
Henry Roehrig, Sr., Lizzie Lux Pott, Lena
Lux MacBride, and Henry Lux as trustee for
Henry Lux and Marguerite Lux, all heirs and
divisees of Charles Lux, deceased,

Plaintiffs,

VS

MADERA CANAL & IRRIGATION COMPANY,
(a corporation),

Defendants.

No. 687.

JUDGMENT.

(167 Cal.78)

In the above entitled cause, the defendant having duly
appeared and answered, and the plaintiffs Union Colonization
Company (a corporation), Luther J. Holton and J. W. Goodwin,
Robert E. Easton, as executor of the last will and testament of
E. W. Howard, deceased, and R. E. Easton having been duly sub-
stituted as plaintiffs in the place and stead of Plaintiff
California Pastoral & Agricultural Company, (a corporation),
and Miller & Lux Incorporated, (a corporation) having been duly
substituted as plaintiff in the place and stead of the other
plaintiffs in said action, and said cause coming on regularly

for trial before the Court, Honorable George E. Church, presiding, without a jury, and evidence documentary and otherwise having been taken, and said cause having been argued by counsel and submitted to the Court, and the Court having rendered its decision in writing herein, and the Court being now fully advised in the premises, now renders judgment herein in accordance therewith.

NOW, Therefore, by reason of the law and findings aforesaid, it is by the Court ORDERED, ADJUDGED AND DECREED as follows, to-wit:

1. That the defendant is the owner of and entitled to divert, take and appropriate from the said Fresno River water to the extent of two hundred (200) cubic feet running and flowing per second measured at defendant's point of diversion, to-wit, at the dam and headgate of defendant in Section eight (8), Township Eleven (11), South, Range Eighteen (18) East, Mount Diablo Base and Meridian, in the County of Madera, State of California, whenever there is sufficient water in said river to furnish that amount, and when the water flowing in said river is insufficient to furnish that amount, all of the waters running and flowing in said river; said two hundred (200) cubic feet of water running and flowing per second being inclusive of the waters heretofore and now artificially turned into said river by the defendant above defendant's point of diversion aforesaid, from the Merced and San Joaquin Rivers, and if at any time defendant shall for any reason cease or discontinue in whole or in part the diversion of said waters from the said Merced River and the said fork of the San Joaquin River and the turning thereof into said Fresno river, thereupon there shall be and continue a corresponding reduction in the amount of water which the defendant is entitled to divert and which it may divert from the said Fresno River.

2. That the plaintiffs, and each of them, are entitled to the full and unobstructed flow of all of the waters of the said Fresno River by, through and over their said riparian lands described in the findings herein, in excess of the said amount which the defendant is entitled to appropriate and divert from said river as aforesaid.

3. That the defendant, its agents, attorneys, employees, officers and assistants, and all persons acting under it or by its authority, or in its aid or assistance, be, and they are hereby and each of them is absolutely enjoined and restrained from taking or diverting from said Fresno River any water in excess of said two hundred (200) cubic feet flowing per second at the head of defendant's said canal in said Section Eight (8), and from in any manner, or otherwise, or at all, diverting, interrupting or interfering with the flow of the waters of said river by, through and over and upon the lands of the plaintiffs, or any of them, and if at any time the defendant shall for any reason cease or discontinue in whole or in part the diversion of the said waters from the said Merced River or the north fork of the San Joaquin River and the turning thereof into said Fresno River as specified in the findings herein, then and in that event, the defendant and all of its representatives and assistants as aforesaid, are enjoined and prohibited from diverting from said Fresno River any greater quantity of water than said two hundred (200) feet flowing per second less the quantity of water so ceased to be diverted from the said Merced and San Joaquin rivers into the said Fresno River, and then again diverted out of said river by the

defendant as aforesaid, so that the quantity diverted from said Fresno River shall be the said two hundred (200) cubic feet of water flowing per second less such quantity of water, if any, as the defendant has ceased to divert from the said Merced River and the said San Joaquin River as compared with the full quantity of water which the said defendant is entitled to divert and has heretofore diverted from said rivers respectively as set forth in the findings herein.

Done in open Court this 31st day of January, 1916.

GEORGE E. CHURCH,

Judge Presiding.

Filed February 8, 1916.